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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/773,835	01/31/2001	Paul E. Bender	PA000459	7156
23696	7590	12/02/2004	EXAMINER ELALLAM, AHMED	
Qualcomm Incorporated Patents Department 5775 Morehouse Drive San Diego, CA 92121-1714			ART UNIT 2662	PAPER NUMBER

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/773,835	Applicant(s) BENDER ET AL.	
	Examiner AHMED ELALLAM	Art Unit 2662	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 September 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see continuation.

3. ☒ Applicant's reply has overcome the following rejection(s): 112 second paragraph.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 5,49 and 50.

Claim(s) objected to: 6-35.

Claim(s) rejected: 1-4 and 36-48.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation:

The added limitations of “detecting a plurality of pre-existing open connections in an access network between the access point and the data network”, “selecting one of the preexisting open connections based in part on data traffic activity of the pre-existing open connections, each pre-existing open connection being in one of a busy open state or an idle open state” as indicated in claim 1, raise new issue that would require an updated search and/or consideration.

The added limitations of “selecting a pre-existing open connections among a plurality of pre-existing open connections based in part on data traffic activity of the open connections, each pre-existing open connection being in one of a busy open state” as indicated in claim 36, raise new issue that would require an updated search and/or consideration.

The added limitations of “to detect a plurality of pre-existing open connections in an access network... to select a preexisting open connections among the plurality of open pre-existing open connections based on data traffic activity of the open connections, each pre-existing open connection being in one of a busy open state or an idle open state” as indicated in claim 41, raise new issue that would require an updated search and/or consideration.

The added limitation among others of “selecting said idle open state connection based on data traffic activity of said idle open connection and other open connections” as indicated in claim 44, raises new issue that would require an updated search and/or consideration.


The added limitations of "selecting a pre-existing open connections in an access network between an access terminal and a data network based on grade of service assigned to said pre-existing open connection and data traffic activity of the pre-existing open connection" as indicated in claim 45, raise new issue that would require an updated search and/or consideration.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AHMED ELALLAM whose telephone number is (571) 272-3097. The examiner can normally be reached on 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kizou Hassan can be reached on (571) 272-3088. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AHMED ELALLAM
Examiner
Art Unit 2662
11/29/04 


JOHN PEZZLO
PRIMARY EXAMINER